

**REMARKS**

As a preliminary matter, Applicant's representative would like to thank Examiner Tianjie Chen, Art Unit 2656, for courtesies extended in the personal interview conducted on December 14, 2005.

An Examiner's Interview Summary Record (PTOL-413) was mailed by the Examiner on December 23, 2005.

Applicant submits this Statement to comply with the requirements of M.P.E.P. § 713.04.

In the interview, the following was discussed:

**A. Identification of claims discussed:**

Claims 4-7, 10-17, 20, 23-26, 28, 34, 38, and 39 are all the claims presently pending in the application.

**Claims 4, 5, 7, 10-17, and 20 are allowed and claim 26 would be allowable if rewritten in independent form.**

Claims 6, 23-25, 28, 34, 38, and 39 stand rejected on prior art grounds.

**B. Identification of prior art discussed:**

Claims 6, 23-25, 28, 34, 38, and 39 stand rejected on prior art grounds under 35 U.S.C. § 102(e) as being anticipated by newly cited Takamatsu, et al. (U.S. Patent No. 6,493,308; hereinafter "Takamatsu").

**C. Identification of principal proposed amendments:**

None.

**D. Brief Identification of principal arguments:**

Applicant's representative discussed the arguments set forth in the Request for Reconsideration filed on November 30, 2005.

**E. Results of the Interview:**

No agreement was reached.

The Examiner took the position that U.S. Patent No. 6,493,309 to Takamatsu shows that the positioning unit is movable substantially vertically to the drive unit (see column 6, lines 47-60). The Examiner suggested adding more details to the structural limitations to distinguish the prior art, in which the user removes the disc tray from the tray housing section and moves it vertically to another position in the tray housing section.

Applicant argued, however, that the cited portion of Takamatsu does not disclose the user moving the disk tray "vertically", but instead, discloses that the "*pull-out unit 18 is held and actuated with the user's finger for moving the disc tray 3 between the position accommodated in the tray housing section 4 and the position pulled out from the tray housing section 4*" (see Takamatsu at column 6, lines 47-60). That is, as illustrated in Figure 1 of Takamatsu, the pull-out unit 18 is moved horizontally (i.e., is ejected horizontally) from (1) the position inside the tray housing section 4 (as shown by the

uppermost pull-out unit 18 illustrated in Figure 1) and (2) the position outside the tray housing section 4 (as shown by the lowermost pull-out unit 18 illustrated in Figure 1).

The Examiner also took the position that claim 34 includes an “action limitation”, and therefore, allegedly does not invoke a construction under 35 U.S.C. § 112, sixth paragraph.

Applicant argued, however, that the “action” of “*for rotating by a drive unit and to take out information from the disc by a pickup of said drive unit*” does not recite structural features of the “*means for positioning a disc in a lateral direction*”, as recited in claim 34.

That is, claim 34 does not recite any structure for the “*means for positioning a disc in a lateral direction*”, as recited in claim 34, which would take this recitation out of a construction under 35 U.S.C. § 112, sixth paragraph. Instead, the “*drive unit*” merely recites structure for the function of “*rotating*”.

Thus, Applicant’s representative argued that the “*means for positioning a disc in a lateral direction*”, as recited in claim 34, properly should be construed under 35 U.S.C. § 112, sixth paragraph.

**F. Conclusion:**

As mentioned above, no agreement was reached.

It is believed that no petition or fee is required. However, if the USPTO deems otherwise, the Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully submitted,

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